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Being Specific

Max Melville

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It was there held, as in the federal decision, on the principle that no one can profit by his own wrong, that Downey had forfeited all right under the policy. But the state supreme court rejected the reasoning of the federal appellate court as to disposition of the insurance proceeds, and held that they must go to the contingent beneficiary. This was on the premises that Lila Downey, by naming a contingent beneficiary, had clearly indicated her intention that, failing a first beneficiary, the contingent beneficiary should take in preference to her estate; and the court gave effect to this intention by awarding the proceeds of the policies to that individual.

In the meantime the defeated mother-in-law petitioned for certiorari in the United States Supreme Court, seeking review of the adverse decision of the federal appellate court. On March 31, 1952, the Supreme Court granted certiorari, vacated the judgment in favor of the estate, and remanded the case to the Court of Appeals "for further consideration in the light of *Beck v. West Coast Life Insurance Company*, decided by the Supreme Court of California on March 21, 1952."⁴

This seems to be an effective lefthanded way of telling the lower federal court it would be wise to follow the state court decision and confer the bloody spoils on the murderer's mother, thus repaying her for raising so foreseeing a son.

GEORGE M. McNAMARA.

BEING SPECIFIC

MAX MELVILLE
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On December 10, 1891, Kit Carson, Jr., in the course of an affray in which he was engaging with one Richards, discharged his revolver at random and killed Richards' wife, Manulita. He was charged with murder. Under practice, and by virtue of statute,¹ it would be necessary to allege in addition to the formal parts only the following: "That Kit Carson, Jr., on December 10, 1891, at the County of Bent, State of Colorado, did feloniously, wilfully and of his malice aforethought kill and murder Manulita Richards." But here is how it actually was done:²

"That Kit Carson, Jr., on the 10th day of December, A. D. 1891, at the said County of Bent, did then and there in and upon one Manulita Richards, in the peace of the

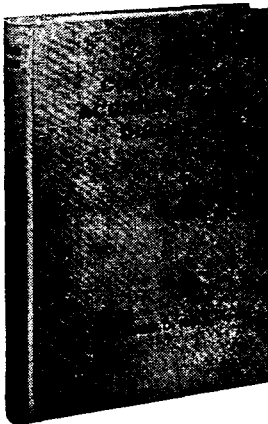
⁴ 20 Law Week 3258, April 1, 1952.

¹ 35 C.S.A., c. 48, §453.

² Carson v. People, 4 Colo. App. 463, 464, 36 P. 551.

People then and there being, unlawfully, feloniously, wilfully and of his malice aforethought, make an assault, and that he, the said Kit Carson, Jr., a revolving pistol then and there loaded and charged with gunpowder and a leaden bullet, which said revolving pistol, he the said Kit Carson, Jr., in his right hand then and there had and held, then and there unlawfully, wilfully and of his malice aforethought, did discharge and shoot off, to, by, against and upon and through the said Manulita Richards; and that the said Kit Carson, Jr., with the leaden bullet aforesaid, out of his revolving pistol aforesaid, then and there by the force of the gunpowder aforesaid, by the said Kit Carson, Jr., discharged and shot off as aforesaid, then and there unlawfully, feloniously, wilfully and of his malice aforethought, did strike, penetrate and wound the said Manulita Richards upon and through the head of her the said Manulita Richards, thereby then and there giving to her, the said Manulita Richards, penetrating through the head of her, the said Manulita Richards, a mortal wound, of which mortal wound she the said Manulita Richards then and there died."

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